

DOUBLE TAXATION AND FISCAL ASSISTANCE

Protocol signed at Washington May 17, 1948, modifying and supplementing convention of July 25, 1939, and modifying convention of October 18, 1946

Senate advice and consent to ratification June 2, 1948

Ratified by the President of the United States June 18, 1948

Ratified by France September 5, 1949

Ratifications exchanged at Washington October 17, 1949

Entered into force October 17, 1949

Proclaimed by the President of the United States October 27, 1949

*Supplemented by convention of June 22, 1956*¹

*Provisions concerning taxes on income, capital and stock exchange transactions terminated by convention of July 28, 1967*²

64 Stat. (3) B 28; Treaties and Other
International Acts Series 1982

PROTOCOL

The Government of the United States of America and the Government of the French Republic, desiring to conclude a supplementary Protocol modifying in certain respects the Convention signed at Paris October 18, 1946,³ for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances and for the purpose of modifying and supplementing certain provisions of the Convention between the two Governments relating to income taxation signed at Paris on July 25, 1939,⁴

Have agreed as follows:

ARTICLE I

(1) Article 12 of the Convention of October 18, 1946, is amended by adding thereto the following paragraph:

(5) The assistance provided for in this Article shall not be accorded with respect to citizens, corporations or other entities of the State to which application is made nor with respect to estates of such citizens.

¹ 8 UST 843; TIAS 3844.

² 19 UST 5280; TIAS 6518.

³ TIAS 1982, *ante*, p. 1178.

⁴ TS 988, *ante*, p. 1046.

(2) For the purposes of Title I of the Convention of October 18, 1946—

(a) The determination whether a citizen of the United States acquired a domicile in France will, for the purposes of the French tax on inheritances, be made in conformity with Article 103 of the French Civil Code as in effect on the date of signature of this Protocol.

(b) The determination whether a citizen of France acquired a domicile in the United States will, for the purposes of Federal estate taxes, be made in conformity with Section 81.5 of the United States Estate Tax Regulations as in effect on the date of signature of this Protocol.

(3) Article 9 of the Convention between the two Governments relating to income taxation signed at Paris on July 25, 1939, is amended to read as follows:

ARTICLE 9 ⁵

An individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State upon compensation for personal services (other than income from the exercise of a liberal profession) performed during the taxable year within such other Contracting State if (a) he is present in such other Contracting State for a period or periods aggregating less than the taxable year and (b) such services are performed for or on behalf of a resident, corporation or other entity of the former Contracting State.

This provision does not apply to the income referred to in Article 8.

(4) The provisions of Article 10 of the Convention signed July 25, 1939 between the United States and France shall be applied on a reciprocal basis.

(5) Title I of the Convention between the two Governments signed at Paris on July 25, 1939 is supplemented by the following Article:

ARTICLE 19A

In the case of taxes on property or on increment of property, the following provisions shall be applicable:

(1) If the property consists of:

- (a) immovable property and accessories appertaining thereto;
- (b) commercial or industrial enterprises, including maritime shipping and air transport undertakings;

the tax may be levied only in that Contracting State which is entitled under the preceding Articles to tax the income from such property.

⁵ For a further modification of art. 9, see convention of June 22, 1956 (8 UST 843; TIAS 3844).

(2) In the case of all other forms of property, the tax may be levied only in the State of domicile. However, the value of furniture is taxable in the State of the residence to which the furniture appertains.

(3) In applying paragraph (2) above, the domicile of physical persons corresponds to the normal residence understood in the sense of permanent habitation; domicile of corporations or other juridical persons to the place of the site of their actual management.

(4) This Article shall become effective only as to taxes enacted on or after the date of exchange of the instruments of ratification of this Protocol.

ARTICLE II

(1) This Protocol shall be ratified and the instruments of ratification thereof shall be exchanged at Washington.

(2) This Protocol shall become effective and continue effective in accordance with Articles 18 and 19 of the Convention of October 18, 1946 as though this Protocol were an integral part of that Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol and have affixed thereto their seals.

DONE in duplicate, in the English and French languages, at Washington this 17th day of May, 1948.

For the Government of the United States of America:

G. C. MARSHALL [SEAL]

Secretary of State of the United States of America

For the Government of the French Republic:

H. BONNET [SEAL]

*Ambassador Extraordinary and Plenipotentiary
of the French Republic in Washington*